



THE TAX INSTITUTE

2 April 2019

Ms Karen Payne
CEO – Board of Taxation
C/- Board of Taxation Secretariat
The Treasury – Sydney Office
Level 5, 100 Market Street
SYDNEY NSW 2000

By email: taxboard@treasury.gov.au

Dear Ms Payne,

Post-Implementation review of the Tax Transparency Code (TTC)

The Tax Institute welcomes the opportunity to make a submission to the Board of Taxation in relation to the *Post-Implementation review of the Tax Transparency Code* Consultation Paper (**Consultation Paper**).

The Tax Institute acknowledges that increased transparency, including a well-designed voluntary TTC, will have a positive impact on the integrity of the tax system and thereby on voluntary compliance. In particular, transparency measures have the ability to positively influence the perception of taxpayers generally with respect to the large corporate sector and to underscore the important role they play in the economy. A properly designed TTC can assist in moving any public discussion away from unhelpful rhetoric, such as notions of a company paying its 'fair share' of tax, to more accurate and objective measures.

While there is a place for tax-related information to be disclosed on a voluntary basis, there are other mandatory disclosures that are made that reveal tax information about large businesses. These include the Large Business Tax Gap information published by the Commissioner of Taxation (which is about three years behind the current income year) and the disclosures the Commissioner is required to make on behalf of all corporate tax entities with reported total income of \$100 million or more pursuant to section 3C of the *Taxation Administration Act 1953* (Cth) (the latest of which is available for the 2016-17 income year¹).

¹ <https://www.ato.gov.au/Business/Large-business/In-detail/Tax-transparency/Corporate-tax-transparency-report-for-the-2016-17-income-year/>

As acknowledged in the Consultation Paper, information voluntarily disclosed under the Tax Transparency Code is more current than the other disclosures made. Confusion can arise among users of the information where the differences in the age of the information disclosed are not appreciated.

Compliance with the TTC is voluntary and the current TTC was designed on this basis. Accordingly, the voluntary nature of the TTC, and how this in turn impacts the actual content of the TTC, should remain a fundamental consideration of the post-implementation review.

Should there be any intention to make compliance with the TTC mandatory, in The Tax Institute's view, the whole TTC will need to be revisited. The way the TTC has currently been phrased is to suit voluntary compliance. It was not designed to be mandatory and different considerations arise, or have different weight, in circumstances where the TTC is made mandatory. These considerations include the compliance burden that will arise, and the degree of overlap with other disclosures already being made by large corporates (which may give rise to a need to streamline reporting obligations).

Endorsement of joint submission by the Corporate Tax Association, Group of 100 and the Australian Petroleum Production and Exploration Association

Subject to the comments made above, The Tax Institute endorses the joint submission made by the *Corporate Tax Association, Group of 100* and the *Australian Petroleum Production and Exploration Association* dated 28 March 2019.

If you would like to discuss any of the above, please contact either myself or Tax Counsel, Stephanie Caredes, on 02 8223 0059.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Tim Neilson', written in a cursive style.

Tim Neilson
President